



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 6, 1998

Mr. Edward H. Perry
Assistant City Attorney
Office of the City Attorney
City Hall
Dallas, Texas 75201

OR98-1137

Dear Mr. Perry:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 115543.

The City of Dallas (the "city") received a request for information regarding a notice of violation issued by the city's water utilities department. You assert that the requested information is excepted from disclosure under section 552.108 of the Government Code. You also claim that the information identifying the complainant is protected from disclosure under the informer's privilege, as incorporated by section 552.101 of the Government Code. You state that you will release the remaining requested information. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from required public disclosure information that is considered confidential by law, either constitutional, statutory, or by judicial decision. Texas courts have recognized the informer's privilege. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969). It protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 (1988) at 3, 208 (1978) at 1-2. The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." Open Records Decision No. 279 (1981) at 2 (citing Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. *See* Open Records Decision Nos. 582 (1990) at 2, 515 (1988) at 4-5.

After reviewing your arguments and the submitted material, we agree that the information you have marked identifies the complainant, and therefore may be withheld under the informer's privilege as incorporated by section 552.101 of the Government Code. We assume, for purposes of this ruling that the person complained of does not know the identity of the informer.

As we resolve this matter under section 552.101 we need not address your claimed exception under section 552.108. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/glg

Ref.: ID# 115543

Enclosures: Submitted documents

cc: Mr. Michael A. Miller
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(w/o enclosures)